

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	: 10/538,953	Confirmation No.	: 5625
First Named Inventor	: Frank Seidel		
Filed	: March 13, 2006		
TC/A.U.	: 1715		
Examiner	: Elizabeth A. Burkhart		
Docket No.	: 011235.56373US		
Customer No.	: 23911		
Title	: Method And Device For CVD Coating Of Workpieces		

**REPLY BRIEF**

**Mail Stop Appeal Brief-Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In the Examiner's Answer, in the Response to Argument section, para. A.1., the Examiner agrees with Appellant that Punola discloses generating an aluminide gas from the gas generators 20, 22 using aluminum pellets and a process gas. However, even with this acknowledgment by the Examiner of Punola's disclosure related to generating a coating gas in the gas generators with aluminum pellets and a process gas, the Examiner is still arguing that other disclosure in Punola discloses "generating a coating gas" with a "process gas" and "coating granules." The only way the Examiner can make this strained argument is by providing the Examiner's own interpretations for the claim terms "process gas", "coating granules", "generate", and "coating gas".

Whereas Appellant acknowledges that the Examiner must give a claim its "broadest reasonable interpretation", Appellant also respectfully submits that the breadth of this broadest reasonable interpretation is limited since it must also be given "in light of the specification as it would be interpreted by one of ordinary skill in the art" *and* "be consistent with the interpretation that those skilled in the art would reach." M.P.E.P. ¶ 2111. (Emphasis added). Further, even if the limitations

“process gas” and “coating gas”, and the other contested claim terms, are not defined within the instant specification, as argued by the Examiner, this does not mean that the Examiner is free to provide her own interpretation for these terms. Again, these terms are specifically disclosed in the specification and Appellant respectfully submits that one of ordinary skill in the art, particularly in interpreting these specific terms in light of the specification, would conclude that these features of Appellant’s invention are disclosed by Punola’s generating an aluminide gas from the gas generators 20, 22 using aluminum pellets and a process gas. Evidence that this is how one of ordinary skill in the art would interpret these claim terms is provided in Appellant’s specification in the Background and Summary of the Invention section, where Appellant discusses prior art coating methods and apparatuses, and in Punola itself, which discloses a “CVD coating apparatus and method”. It is only the Examiner who has interpreted these claims terms to mean something other than what one of ordinary skill in the art would interpret them to mean.

Thus, Appellant respectfully submits that, in contravention to the interpretation that one of ordinary skill in the art would give to the specifically disclosed terms, the Examiner has inserted her own definitions for these terms. In fact, the Examiner has provided no basis for her interpretations; rather, the Examiner merely states that the limitations are given “the broadest reasonable interpretation.” The Examiner provides no rationale for why the Examiner’s given interpretation for these claim terms has any basis “in light of the specification as it would be interpreted by one of ordinary skill in the art” nor in any “interpretation that those skilled in the art would reach”. The Examiner merely provides her own definitions and, for the claimed “generate”, uses a dictionary definition.

Further with respect to the Examiner’s claim interpretations and Punola, in para. A.3. of the Examiner’s Answer, the Examiner appears to argue that the

Examiner is free to interpret Punola broadly since “Punola does not use the same terms as the present invention.” Appellant respectfully disagrees that Punola’s “coating gas” and “coating granules” can be interpreted to be different elements from what Punola specifically discloses for these elements, i.e., the Examiner’s acknowledged disclosure of Punola of generating an aluminide gas from the gas generators 20, 22 using aluminum pellets and a process gas. Any different interpretation of Punola by the Examiner is directly contrary to Punola’s specific disclosure.

Regarding the Examiner’s argument that because Punola does not use the same terms as the present invention, the Examiner may interpret Punola’s disclosure in the manner as argued by the Examiner, Appellant respectfully disagrees. Punola specifically discloses at col. 4, lines 52-59 that:

Exemplary low temperature metal halide gas generators 20, 22 for use in practicing the invention to form an oxidation and corrosion resistant aluminide coating on nickel base superalloy substrates comprises a bed (not shown) of aluminum pellets and a heating device (not shown) to heat the pellets to a desired reaction temperature depending upon the acid halide gas to be supplied thereto. (Emphasis added).

Thus, Appellant respectfully submits that, as acknowledged by the Examiner, Punola discloses generating an aluminide (“coating”) gas from the gas generators using aluminum pellets and a process gas. As such, Appellant respectfully submits that this disclosure of Punola discloses “generating” a “coating gas” by “coating granules” and a “process gas”, as those terms would be interpreted by one of ordinary skill in the art in light of Appellant’s specification, and in light of Punola’s own disclosure. Again, Appellant respectfully submits that it is only the Examiner, without providing any rationale rooted in the specification or on an interpretation that those skilled in the art would reach, that has provided a “broadest reasonable interpretation” for the claim terms that allows the Examiner to contort the

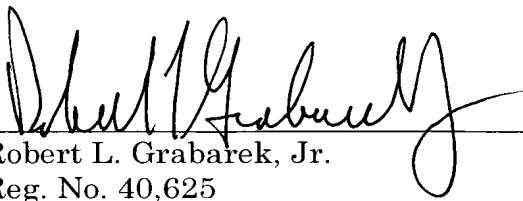
disclosure of Punola, contrary to the explicit disclosure of Punola, such that these claim terms read on the disclosure of Punola.

Therefore, Appellant respectfully submits that a proper interpretation of the claim terms “generating” a “coating gas” by “coating granules” and a “process gas”, as interpreted in light of the specification as it would be interpreted by one of ordinary skill in the art and consistently with the interpretation that those skilled in the art would reach, results in Punola’s disclosure of metal halide gas generators forming an oxidation and corrosion resistant aluminide coating on nickel base superalloy substrates by a bed of aluminum pellets and an acid halide gas supplied thereto not disclosing Appellant’s claimed invention. It is only the Examiner’s own interpretation for these claim terms, and consequently, the Examiner’s own interpretation of the disclosure of Punola, that can support the Examiner’s rejections. Appellant respectfully submits that these interpretations cannot be the “broadest reasonable interpretations” if the interpretations were given “in light of the specification as it would be interpreted by one of ordinary skill in the art” and if given “consistent with the interpretation that those skilled in the art would reach.”

Therefore, for at least these additional reasons, it is respectfully submitted that Appellant’s claims 18-27 are allowable over the cited references.

Respectfully submitted,  
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